

Message Text

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DRAFTED BY EUR/EE:TEDEAL:FEW
APPROVED BY EUR - MR. ARMITAGE
EUR/EE - MR. BROWN
L/C - MR. KWIA TEK (DRAFT)
----- 106843
P 182359Z DEC 74
FM SECSTATE WASHDC
TO AMEMBASSY PRAGUE PRIORITY

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E.O. 11652: N/A

TAGS: PFOR, EFIN, CZ, US

SUBJECT: CZECH CLAIMS SETTLEMENT

1. AMBASSADOR SPACIL CALLED ON ARMITAGE ON DECEMBER 18 TO TRANSMIT LATEST GOC VIEWS ON LONG/GRAVEL AMENDMENT. HE SAID HE HAD BEEN INSTRUCTED TO EMPHASIZE LEGAL ARGUMENTS AGAINST SEIZURE OF CZECHOSLOVAK GOLD.

2. READING FROM PREPARED NOTES, SPACIL SAID THAT THE CZECHOSLOVAK GOLD QUESTION INVOLVES THE CONCEPT OF STATE SOVEREIGNTY. UNDER INTERNATIONAL LAW, THE LEGISLATIVE POWER OF ONE STATE CANNOT BE APPLIED AGAINST ANOTHER STATE. SIMILARLY, COURTS IN ONE STATE HAVE NO JURISDICTION OVER ANOTHER STATE. THE STATE, ITS ORGANS, AND PROPERTIES ARE EXCLUDED FROM THE LEGISLATIVE POWER AND COMPETENCE OF FOREIGN STATES INCLUDING THE COURTS AND OTHER GOVERNMENTAL ORGANS. A STATE HAS IMMUNITY IN THE COURTS AND THE COURTS OF ONE STATE CANNOT MAKE DECISIONS AFFECTING THE PROPERTY OF A SECOND STATE. FURTHER, A STATE CANNOT IMPLEMENT MEASURES WHICH CONCERN THE PROPERTY OF ANOTHER SOVEREIGN STATE.

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3. SPACIL STATED THAT THE PROPOSALS IN THE LONG/GRAVEL AMENDMENT CONCERNING MONETARY GOLD BELONGING TO CZECHOSLOVAKIA GROSSLY VIOLATE THE NORMS OF INTERNATIONAL LAW BECAUSE BY SUCH ACTIONS THE US GOVERNMENT WOULD BE ALLOWED TO

SEIZE AND HOLD THE PROPERTY OF THE CZECHOSLOVAK STATE. THE U.S. WOULD HAVE TO BEAR FULL RESPONSIBILITY FOR SUCH A VIOLATION. A STATE IS ACCOUNTABLE FOR THE ACTIONS OF ITS ADMINISTRATIVE, LEGISLATIVE AND LEGAL INSTITUTIONS. IN SUM, THE GOLD IN QUESTION IS THE PROPERTY OF CZECHOSLOVAKIA AND THEREFORE COVERED BY THE IMMUNITY OF THE CZECHOSLOVAK STATE.

4. SPACIL ASKED THAT THE DEPARTMENT TAKE DECISIVE STEPS TO PREVENT THE REALIZATION OF THE LEGAL MEASURES SET FORTH IN THE LONG/GRAVEL AMENDMENT.

5. ARMITAGE DECLINED TO COMMENT ON THE LEGAL ARGUMENTS RAISED ABOVE, BUT SAID HE WOULD PASS ON THE INFORMATION TO THE APPROPRIATE OFFICES. HE STRESSED THAT THE DEPARTMENT IS ON RECORD AS OPPOSING THE AMENDMENT AND WE HAVE REPEATEDLY QUESTIONED THE LEGALITY OF SEIZING AND SELLING THE GOLD. HE ADDED THAT WE ARE STILL HOPEFUL THAT THE AMENDMENT WILL BE DROPPED IN THE CONFERENCE.

6. SPACIL SAID HE WAS PESSIMISTIC ABOUT WHAT MIGHT HAPPEN IN CONGRESS. ARMITAGE POINTED OUT THAT IT WAS STILL TOO EARLY TO PREDICT THE FINAL OUTCOME. WE WOULD, OF COURSE, CONSIDER IT A MOST UNFORTUNATE DEVELOPMENT IF THE AMENDMENT WERE TO REMAIN IN THE BILL. THE ADMINISTRATION'S POSITION ON THAT WAS CLEAR. HOWEVER, IF THE AMENDMENT PASSES, BOTH SIDES HAVE TO MAKE THE BEST OUT OF A BAD SITUATION. WE BOTH HAVE A RESPONSIBILITY TO KEEP RELATIONS ON A POSITIVE COURSE.

7. FYI: CONFERENCE COMMITTEE MEETING DECEMBER 18 TO DISCUSS LONG/GRAVEL AND OTHER PROVISIONS IN TITLE IV OF TRADE BILL. END FYI.

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